Telephone 707-489-0981

David Fowler Jonathan Warmerdam California Regional Water Quality Control Board 5550 Skyline Boulevard, Suite A Santa Rosa, CA 95403

Attachment C

RWQCB REGION 1

JUL 3 0 2002

July 28, 2002

Subject: Property rights

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Dear Mr. Fowler and Mr Warmerdam.

On June 10, 2002, you attended a Pre-harvest Inspection (PHI) pertaining to Timber Harvest Plan 1-02-118 MEN on the property of Hanes Ranch.

During and after this PHI, you did conspire "under color to deprive us of our Rights, Privileges, or Immunities secured by the United States Constitution, a violation of Title 42, United States Code, Section 1983, 1985, and 1986 and/or TITLE 18 United States Code, Section 241 or 242.

In violating these laws you are subject to civil and/or criminal penalties up to \$10,000 fine and/or 10 years in prison, or both, and up to life imprisonment, if death results.

In your report "Onsite Observations" statements about the appurtenant road are false and/or willful distortions of the true conditions of these roads. These roads are in good to excellent condition, NOT in poor condition as you state in your report.

You state that culverts appear to be undersized but show no calculations to prove otherwise. These roads and culverts were installed per past forest practice rules and have been maintained, and have functioned properly for years.

The overall tone and distortions of your report was obviously meant to convince the CDF to deny the THP.

You conspired with the review team to cause denial of this THP by your false and misleading statements. You conspired with Charles Martin the Second Review Chairperson to deny this THP.

The proof of this conspiracy is the fact that your report makes no site specific recommendations. You made no recommendations because you were assured by Charles Martin, prior to your writing your report, that the THP would be denied.

You and the other review team members conspired not to make specific recommendations because you all had conspired with Charles Martin to have the THP denied. Thus, with the THP denied assured there was no need for you to make any recommendations.

Be warned. If you continue to infringe on our rights "under color of law", you may be sued in Federal Court for damages.

Sincerely yours.

John W. Hanes

President

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HANES RANGH, INC.

OCT 3 0 2002

THAL CWS FO FJB

NPO DHH

29000 Mountain View Road
P.O. Box 528

Boonville, CA 95415

Phone 707-489-0981

October 26, 2002

CA Water Quality Control Board North Coast Regional Board 5550 Skylane Boulevard, Suite A Santa Rosa, CA 95403

Attn: Christine Wright-Shacklett

Dear Ms. Shacklett,

We received your Order No. R1-2002-0102 dated Oct 18, 2002 0n Oct. 25, 2002.

This Order is an unreasonable demand to accomplish tasks that are not clearly stated as to what and where corrective measures are to be implemented. Furthermore, it appears that this Order has been based upon the false or substantially misleading reports submitted by your staff persons David Fowler, Jonathan Warmerdam, Jim Burke and Cherie Blatt on THP 1-02-155 MEN and THP 1-02-175 MEN.

You have given us 10 days to mitigate alleged violations that you have been aware of since June 10,2002 on THP 1-02-175 MEN and since July 29, 2002 on THP 1-02-155 MEN. It is not feasible to accomplish your demands within 10 days. This is especially true considering that nowhere within the Order documents are there any instructions, details, drawings, recommended actions or any other words that would tell us exactly what is supposed to be accomplished by Nov. 8, 2002.

We categorically deny that we have discharged soil or earthen material from logging, construction or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses. (Prohibition 1)

We categorically deny that we have placed or disposed soil or earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which would be deleterious to fish, wildlife, or other beneficial uses. (Prohibition 2)

The documents submitted with this Order refer to Exhibit 2 and Exhibit 3. We could find no such numbered exhibits attached or included in the documents.

Your Order findings numbered 9 through 17 are apparently based upon the THP reports listed above. Because of the fact that the reports are full of false and/or misleading statements, those findings 11 through 17 are also false or misleading.

Your Orders for Short Term Emergency Erosion Control numbers 1 and 2 are very unclear as to what site specific actions are required to be taken. Number 1 has broadly stated erosion control measures, but, contains absolutely no references as to where these measures are to be implemented. Number 2 demands implementation of measures on applicable erosion sites as summarized in Findings 11 - 14 above and identified in Exhibits 2 and 3 as well as other erosion sites on the Property No such summary could be found. Since there are no Exhibits 2 and 3 included in the Order, we can not know what is required of us.

Notwithstanding all of the above ambiguities of this Order, we have thoroughly read and examined all of the documents of the Order. Nowhere within the Order documents are there any site specific recommended actions, implementing measures or mitigation's of any nature whatsoever. There are included three location maps that are of such small scale as to being of no use to locate problem sites. There are no site specific maps, drawings, diagrams, or details provided showing or describing where an implementation measure would be required.

In order for us to comply with your alleged Order, please supply us with the following information: A tabulated summary of every alleged erosion site including enough detail as to location, type of problem, and remedies. For each site include in the summary the reason or basis for the alleged violation I.E.: logging, construction, or associated activity of whatever nature. Be sure to include a map of all the sites on a USGS topo with a scale of 1 inch = 2000 feet

It should be noted that the new culverts within THP 1-02-175 MEN (Map points 9 through 11, and 13 through 18) were only partially installed early in the Spring of 2002. The soil was too wet to complete the installation at that time. The review THP review team was informed of this fact. The plan was to wait for drier weather to complete the installations. When the price of timber went up in late spring it was decided that the Ranch would submit a Timber Harvest Plan for the area. Because

of the submittal of the THP the work on the culverts was again postponed to allow the THP review to make their recommendations for the completion of the culvert installations. This information was also explained to the THP review teams. They were repeatedly told that we wanted to complete the installations and were waiting for their review comments. On top of that once a THP is submitted the Forest practice rules forbid us to do any work until after the plan is approved. Therefore, the culvert installations have not been completed.

Furthermore, one of the primary delays to the plan approval has been the failure of WQB to submit their THP review recommendations. To our knowledge, WQB has not yet submitted to the Dept of Forestry any site specific recommendations for mitigation's. All that has been submitted to date has been a report of observations of existing conditions.

We are good stewards of our property. In 1994. Hanes Ranch was awarded the Forest Stewardship of the Year by the Department of Forestry. We want to continue our good stewardship and finish the installation of these culverts. The Installation of these culverts are for the purpose of controlling a source of erosion. The uncontrolled flow of surface water across these existing roads was causing serious erosion. The new culverts will virtually stop the continuance of that erosion. We have constitutional rights to protect our property from the erosive forces of the streams which crossed these roads. The TMDL plans for other watersheds goals are to control all reasonably controllable sources of erosion caused by man made conditions. These culvert installations will be doing just that. It has been the foot dragging and stalling of the WQB not submitting any recommendations in a timely manner that is the primary reason for the delay in the completion if these culvert installations. Had the THP been approved early last Summer as we had anticipated, all of these culverts would have been completed. Erosion control measures would have already been applied throughout the THP and along the appurtenant roads.

It is imperative that THP 1-02-175 MEN be approved as soon as possible so that we can legally enter the THP to winterize the roads.

Sincerely

John Hane

John W. Hanes

President

Page 3 of 3

Phone 707-489-0981

November 17, 2002

RWQCB REGION 1

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Christine Right-Shaklett CA Water Quality Control Board North Coast Regional Board 5550 Skylane Boulevard, Suite A Santa Rosa, CA 95403

RE: Order No. R1-2002-0102 PROGRESS REPORT

Dear Ms. Shacklett,

We received your letter dated 11-07-02 on 11-14-02. Your letter failed to provide the necessary details of the locations and/or explain what was required to be accomplished by us by the subject Order. We have not received any detailed maps of any nature whatsoever showing the locations of the alleged ongoing and/or threatened sources of sediment delivery to waters of the Navarro River watershed.

Without waiving any of our legal rights, we have proceeded with erosion control measures on the incompleted culverts mentioned in my previous letter.

To the best of my knowledge, all of the alleged problems have been mitigated. All perched soil around or near the stream crossings has been removed. Where needed, down spouts have been installed on the culverts. All bare soil has been seeded and mulched with straw. All culvert inlets have been cleared of erodible soil (unplugged). All other exposed soil areas along the road have been seeded and mulched with straw. The road has been water barred at frequent intervals near the crossings. To the best of our ability we have selected and implemented effective site-sepecific cleanup and abatement actions.

Sincerely

John W. Hanes

President

P.O. BOX 528 BOONVILLE, CA 95415

Telephone 707-489-0981

Susan Warner California Regional Water Quality Control Board 5550 Skyline Boulevard, Suite A Santa Rosa, CA 95403 REGION -

FEB 2 5 2003

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July 24, 2002

Subject: Status of Compliance letter dated February 11,2003.

Dear Ms. Warner;

We received the subject on Friday, February 21, 2003.

On close examination of that letter and of the Cleanup and Abatement and Request for Technical reports Order No. R1-2002-0102 (The Order), it is clear that several Constitutional issues conflict with our ability to comply with The Order.

First of all we are not, nor ever have been polluters, and the Cleanup and Abatement Order was unnecessary.

As stated in my "Progress Report" on November 19, 2002, we treated the areas of your concern to the best of our knowledge and ability. These treatments we do as a normal maintenance and erosion control program on our ranch.

I am confused and in a dilemma as to how to meet your other demands without waiving our rights as enumerated and guaranteed by the U. S. Constitution and the California Constitution.

Would you please explain how we can report all that you have demanded without waiving our right to privacy as guaranteed by the U. S. Constitution?

Would you please explain how we can report all that you have demanded without waiving our right Not to be a Witness Against Ourselves, as guaranteed by the Fifth Amendment of the U.S. Constitution?

Your demand for a Long-Term Erosion Control Plan includes a sediment source inventory. Such an inventory as you have detailed would entail many man months and thousands of dollars to complete. We have no need for such an inventory, therefore it would be only for the State's use. This would be a taking of private property for public use in violation of the Fifth Amendment to the U. S. Constitution.

Your demand for a Landslide Investigation Report would require man years and hundreds of thousands of dollars to locate, map, analyze, and design mitigation measures for all landslides on the property. We have absolutely no use for such landslide inventory. To enforce this demand would clearly be a violation of our Fifth Amendment rights against the taking of private property without just compensation.

Would you please explain how we can comply with your demand for a Long-Term Erosion Control Plan and Landslide Investigation Report without waiving our right to "Just Compensation" under the Fifth Amendment of the U.S. Constitution?

I am further puzzled by these unconstitutional demands because all government employees have sworn to uphold and defend the U.S. and State Constitutions.

Furthermore, as you must know, it is a violation of Federal law for any person (this includes every government official) to deprive, under color of law, any Citizen of Rights, Privileges or Immunities secured by the U. S. Constitution. Such a violation includes penalties up to \$10,000 fine and/or 10 years in prison, or both, and up to life imprisonment, if death results.

Sincerely yours,

John W. Hanes

President

IN ANSWER TO PAPARE MESSAGE;

THE HANES RANCH ERP IS IN

DEVELOPMENT PROGRESS AND WILL

SOON BE COMPLETED.

John Hane

RWQCB REGION 1

JUL 14 2003

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## HANES RANCH, INC.

P.O. BOX 528 **BOONVILLE, CA 95415** 

Telephone 707-489-0981

RWQCB **REGION 1** 

JUL 2 5 2003

HAL\_\_ CWS\_ FJB\_ NPQ DHH

Susan Warner California Regional Water Quality Control Board 5550 Skyline Boulevard, Suite A Santa Rosa, CA 95403

July 24, 2003

Subject: Administrative Civil Liability Complaint No. R1-2003-0081

and Order No. R1-2002-0102

Dear Ms. Warner.

We are in the process of developing and implementing a long term erosion control plan (ECP). As we have explained previously the engineering process to develop a sediment source inventory and landslide investigation report is lengthy.

The engineer doing this work has extensive experience (nearly 30 years with the SCS) in this type of erosion control work. His experience is as follows:

1962-1974 Worked on the design, layout and construction of the extensive flood control projects in and near Santa Rosa, California. That included several large flood control dams and many miles of flood control channels.

1974-1983 Worked in the SCS state office design section in Davis California. He prepared numerous flood control and erosion control designs for large projects throughout California. These designs involved detailed and complicated hydraulic analysis.

1983-1990 Hydraulic Engineer and Team Leader on the SCS River Basin Planning Staff. Responsible for the leadership and preparation of detailed erosion and flood control plans. He prepared numerous reports and plans for public distribution.

The engineers reports will be completed by mid August.

There is some difficulty in preparing these reports from the fact that we do not possess a copy of the proposed THP 1-02-155 MEN. This proposed THP was withdrawn from the review process shortly after July 29, 2002 by our forester Ken Wood. Mr. Wood did not provide us with a copy and the CDF does not keep copies of withdrawn proposed THP's

Because of this the only map of the area (with map point locations) that we possess is the small scale map included in the order. To the best of our ability we will attempt to cross-reference our ECP maps to those proposed THP map point locations.

The short-term emergency mitigation measures that were implemented last November 2002 have performed well. The seeding and mulching did a good job of protecting bare soil areas. There was some minor rilling from the heavy winter rains; but, the grass is growing well and will continue to protect those areas. The long term erosion control plan (ECP) will address the treatment of any remaining rills.

The 54 culverts on the property performed very well considering the very high intensity windy storms that occurred last winter. Only three (3) culverts were over topped and they were plugged by natural occurring landslides or debris slides in the watercourses above the culverts. This culvert performance is

excellent compared to state HWY 128 where nearly half the culverts plugged during one storm event in December. The long term treatment for culverts will also be addressed in the ECP.

A few road cut landslides blocked the access roads to the property. No damage was observed caused by deep seated landslides, nor were there any road fill landslides.

Access has been re-established and long term erosion control measures are being implemented in conjunction with the preparation of the ECP.

Construction contractors have been contacted in preparation to implement reconstruction of damaged roads.

In you report the statement was made that I refused WQB personnel access to Hanes Ranch property. I don't recall ever denying access to anyone. To help me refresh my memory please send me copies of any letters from me wherein you were refused entry to the property.

I did send you a letter on February 24, 2003 asking you to explain how I could meet your demands without waiving our constitutional guaranteed rights. We never received an answer to that letter.

In your complaint Paragraph 6 b) "The inspections all revealed the Dischargers violated Prohibition 1 and Prohibition 2 of the Action Plan for Logging, Construction, and Associated Activities, as described in the Water Quality Control Plan for the North Coast Region (Basin Plan)."

Except for the newly installed culverts on proposed THP 1-02-175 MEN there has been absolutely no "Logging, Construction, and Associated Activities" on the property. I requested in a letter to WQB for a listing of all alleged discharge sites and what activity was responsible for the alleged discharge. We have never received a reply for that information. That is unreasonable.

Your complaint report there are 66 active erosion sites. I ask again which of these sites are caused by violation of Prohibition 1 or Prohibition 2 of the action plan as described in the Basin Plan. Please provide us with a USGS map indicating the locations of these sites. We need this information to adequately address and contest the allegations in the Complaint.

It has never be our intent not to install all of the measures that can be reasonably performed to control any erosion occurring on the Hanes Ranch. It was our intent to do those works as part of the proposed THP's. Those proposed THP's were not approved primarily because of WQB's unreasonable demands.

Sincerely yours,

John W. Hanes President